

Bur. of Consumer Financial Protection

§ 1026.22

to the loan balance, adding an escrow account to the loan, or purchasing a property insurance policy on the consumer's behalf that may be more expensive and provide fewer benefits than a policy that the consumer could obtain directly;

(B) A statement with a telephone number that the consumer can use to request additional information about the cancellation of the escrow account;

(C) A statement of whether the creditor or servicer offers the option of keeping the escrow account open and, as applicable, a telephone number the consumer can use to request that the account be kept open; and

(D) A statement of whether there is a cut-off date by which the consumer can request that the account be kept open.

(3) *Optional information.* The creditor or servicer may, at its option, include its name or logo, the consumer's name, phone number, mailing address and property address, the issue date of the notice, the loan number, or the consumer's account number on the notice required by this paragraph (e). Except for the name and logo of the creditor or servicer, the information described in this paragraph may be placed between the heading required by paragraph (e)(2) of this section and the disclosures required by paragraphs (e)(2)(i) and (ii) of this section. The name and logo may be placed above the heading required by paragraph (e)(2) of this section.

(4) *Form of disclosures.* The disclosures required by paragraph (e)(2) of this section shall be provided in a minimum 10-point font, grouped together on the front side of a one-page document, separate from all other materials, with the headings, content, order, and format substantially similar to model form H-29 in appendix H to this part. The disclosure of the heading required by paragraph (e)(2) of this section shall be more conspicuous than, and shall precede, the other disclosures required by paragraph (e)(2) of this section.

(5) *Timing*—(i) *Cancellation upon consumer's request.* If the creditor or servicer cancels the escrow account at the consumer's request, the creditor or servicer shall ensure that the consumer receives the disclosures required by paragraph (e)(2) of this section no later than three business days before the closure of the consumer's escrow account.

(ii) *Cancellations other than upon the consumer's request.* If the creditor or servicer cancels the escrow account and the cancellation is not at the consumer's request, the creditor or servicer shall ensure that the consumer receives the disclosures required by paragraph (e)(2) of this section no later than 30 business days before the closure of the consumer's escrow account.

(iii) *Receipt of disclosure.* If the disclosures required by paragraph (e)(2) of this section are not provided to the consumer in person,

the consumer is considered to have received the disclosures three business days after they are delivered or placed in the mail.

§ 1026.21 Treatment of credit balances.

When a credit balance in excess of \$1 is created in connection with a transaction (through transmittal of funds to a creditor in excess of the total balance due on an account, through rebates of unearned finance charges or insurance premiums, or through amounts otherwise owed to or held for the benefit of a consumer), the creditor shall:

(a) Credit the amount of the credit balance to the consumer's account;

(b) Refund any part of the remaining credit balance, upon the written request of the consumer; and

(c) Make a good faith effort to refund to the consumer by cash, check, or money order, or credit to a deposit account of the consumer, any part of the credit balance remaining in the account for more than 6 months, except that no further action is required if the consumer's current location is not known to the creditor and cannot be traced through the consumer's last known address or telephone number.

§ 1026.22 Determination of annual percentage rate.

(a) *Accuracy of annual percentage rate.*

(1) The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, that relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method. Explanations, equations and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in appendix J to this part. An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this part if:

(i) The error resulted from a corresponding error in a calculation tool used in good faith by the creditor; and

(ii) Upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes and notifies the Bureau in